

### REMARKS

This responds to the Office Action mailed on February 15, 2008.

No claims are amended, no claims are canceled, and no claims are added; such that claims 21 to 45 remain pending in this application.

#### §103 Rejection of the Claims

Claims 21-45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vaidyanathan et al. (U.S. Publication No. 2004/0059596, hereinafter referred to as the Vaidyanathan reference) in view of Campbell (U.S. Publication No. 2001/0041993, hereinafter referred to as the Campbell reference). Upon consideration of the Examiner's remarks, the Applicants respectfully traverse. The Applicants believe that the pending claims are not anticipated nor rendered obvious in view of the Vaidyanathan and Campbell references and thus should be allowable over those references.

In the Examiner's Office Action dated February 15, 2008, the Examiner cited the Vaidyanathan reference as the primary reference. The Vaidyanathan reference discloses an automated online dispute resolution system. The Vaidyanathan reference provides a system for allowing parties of an electronic commerce dispute to select one of two modes of resolving the dispute, the first mode being completely driven by an electronic agent and **the second mode involving a human dispute resolution specialist**. In the Examiner's rejection, the Examiner cites heavily from portion of the Vaidyanathan reference that requires a human dispute resolution specialist and does not fall within the automated system of the present invention that allows transactions participants to resolve their own disputes.

As set forth all the pending independent claims of present application, the two parties of a transaction are allowed to repeatedly view and enter messages in a messaging board environment in attempts to resolve a dispute between the two parties. For example, pending independent claim 21 claims a method including a stage of "allowing the first party and the second party to repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board". Such a messaging board environment allows the two parties involved in a dispute to communicate freely with each other but in a manner wherein all the communication is recorded. Messaging boards are very well-known in the field of

networked computing such as the Internet's Usenet messaging board system that goes back to 1980.

In the Examiner's Office Action dated February 15, 2008, the Examiner cited the Vaidyanathan reference as teaching "allowing the first party and the second party to repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board". Specifically, the examiner cited paragraphs [0076] to [0078] of page 7. Paragraphs [0071] to [0078] of the Vaidyanathan reference state:

[0071] From state 426, if it is determined that the case should go to conciliation, the transition from state 426 to state 414. **From the case-review state 416, if a dispute resolution specialist accepts, the case transitions to a resolution-in-progress state 430.** If sufficient facts exist to pass resolution of the case, the case proceeds from state 430 back to state 420 where it is resolved. Alternatively, if insufficient facts exist to pass resolution, the case proceeds from state 430 to a conciliation state 432.

[0072] **While in conciliation state 432, the specialist exchanges messages with the two parties to try and reach a mediated settlement.** While in the conciliation state 432, if the dispute resolution specialist sends conciliation messages, the case transition to state 434 where it awaits a response. If the parties respond, then the case transitions from state 434 back to state 432. Alternatively, if the parties do not respond within a predetermined period such as 48 hours, the system transitions from state 434 back to state 432.

[0073] If a mediated settlement is reached, the case transitions from the conciliation state 432 to the resolved state 420. Alternatively, while in the conciliation state 432, if the dispute resolution specialist sends conciliation messages, the system transition to state 434 where it awaits a response. If the parties respond, then the system transitions from state 434 back to state 432. Alternatively, if the parties do not respond in 48 hours, the system also transitions from state 434 back to state 432.

[0074] From state 432, once the dispute resolution specialist decides that conciliation is not possible, the case transitions from the conciliation state 432 to an information-gathering state 436. In state 436, if the specialist decides not to attempt conciliation again, then the case transitions from state 436 back to state 432. Alternatively, if sufficient facts exist to pass resolution, the case proceeds from state 436 back to the resolved state 420. **Further, while in the information gathering state 436, if the dispute resolution specialist requests information or evidence, the case transitions from state 436 to state 438 where the system waits for a response from one of the parties.** If the primary party does not respond within 48 hours, the case transitions from state 438 back to state 436.

Alternatively, if the primary party responds, the case transitions from state 438 to state 440 where it awaits a response from a secondary party.

[0075] From state 440, if the secondary party responds, the case transitions from state 440 to state 436. Alternatively, if the secondary party does not respond, the case also moves back to state 436 to continue the information gathering process.

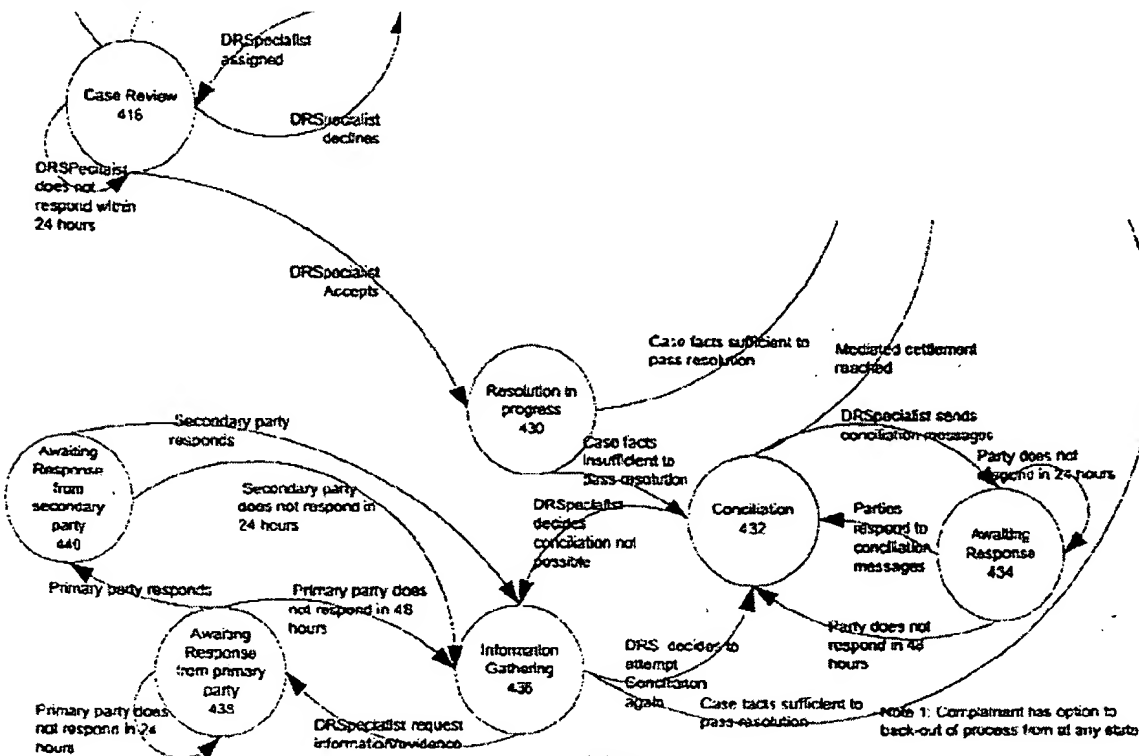
[0076] The evidence collection process discussed above enables the parties to electronically submit photographs (JPEG, GIF file attachments) as well as expert testimonials (scanned and submitted electronically). The system can resolve disputes among multiple parties and allow the additional parties, the complainant, respondent and specialist (e.g. appraiser) to participate in the discovery and evidence submission process.

[0077] Using the above life cycle diagram, an exemplary process for initiating a complaint is discussed next. First, a complainant submits a complaint. Upon receipt of a complaint, the system sends an acknowledgment message to the complainant. The acknowledgment can be sent using regular mail, electronic mail, or any other suitable medium. Next, the system sends a notification message to a respondent. The notification can be sent using electronic mail, for example. Next, the system determines whether the respondent has responded within a first predetermined time limit. If the respondent fails to respond within the first predetermined time period, the system sends a reminder message to the respondent and notifies the complainant that a delay has occurred.

[0078] The system then waits for a second predetermined delay and checks whether the respondent has responded after the second predetermined period. If the respondent fails to respond during the second time period, the system sends an urgent reminder or message to the respondent about a possible default action against the respondent. Then, the system waits for a third predetermined period. Next, the system checks whether the respondent has responded to the urgent message. If the respondent fails to respond after the expiration of the third time period, the system notifies the respondent of an adverse (default) decision; notifies the complainant of a default victory; and closes the case.

(Emphasis added)

These paragraphs refer to **Figure 7**, which is partially reproduce here:



**FIG. 7**

As set forth in paragraphs [0071] to [0078], the communication between the two parties involved in the dispute is only initiated when a dispute resolution specialist initiates a resolution attempt. (“From the case-review state 416, if a dispute resolution specialist accepts, the case transitions to a resolution-in-progress state 430”, paragraph [0071]). This is clearly not a messaging board environment. Even more directly, all communication in the system of the Vaidyanathan reference is done with messages sent to the dispute resolution specialist and only at the specific request of the dispute resolution specialist. (“Further, while in the information gathering state 436, if the dispute resolution specialist requests information or evidence, the case transitions from state 436 to state 438 where the system waits for a response from one of the parties.”, paragraph [0074] and **Figure 7**.) As any user of a computer messaging board knows, this is not how a messaging board environment operates. Thus, the Vaidyanathan reference fails to disclose or teach toward a system that allows users to “repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board” as required by pending claim 21. In fact with its system that requires a dispute resolution specialist, requires

requests from a dispute resolution specialist to obtain additional information, and requires all communication to occur through the dispute resolution specialist; the system of the Vaidyanathan reference explicitly teaches away from the messaging board-centric system of the present invention as claimed in all the pending independent claims.

Since the Vaidyanathan reference fails to disclose an open system that allows transaction participants to work out their dispute by being able to "repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board", the Applicants submit that the present claims are allowable. However, if the Examiner feels that the current wording of the claims is not clear, the Applicants request Examiner to contact the under-signed patent attorney in order to work out an alternate wording.

### CONCLUSION


Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4058 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
408-278-4058

Date 6/16/08

By   
Dag H Johansen  
Reg. No. 36,172

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of June 2008.

Dag Johansen

Name

Signature 